IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 22954 of 2007(G)

PETITIONER:

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1. CHETTIYANTHODI ABOOBACKER, S/O CHEKKU,
   AGED 64 YEARS, CHETTIYANTHODI HOUSE,
   PULAMANTHOLE, MALAPPURAM DIST.

2. PALLATHODI MUHAMMED KUTTY, S/O VEERAN,
   AGED 56 YEARS, PALLATHODI HOUSE,
   PULAMANTHOLE, MALAPPURAM.

3. DR.SAIDALAVI KOYA THANGAL,
   S/O LATE K.P.S.M.THANGAL, AGED 50 YEARS,
   KODINHIPALLIKKAL HOUSE, PULAMANTHOLE,
   MALAPPURAM DIST.

4. DR.V.M.VASUDEVAN,
   S/O.S.V.KARUNAKARA PISHARADI, AGED 50 YEARS,
   SHUKAPURATH PISHARATH, PULAMANTHOLE,
   MALAPPURAM DIST.

5. ERAKKUTH MANOHARAN, S/O E SANKARAN,
   AGED 40 YEARS, ERAKKUTH HOUSE, PULAMANTHOLE,
   MALAPPURAM DIST.

6. KUNNATH PARAMBIL NARAYANKUTTY,
   S/O RAMAN, AGED 55 YEARS, KUNNATHPARAMBIL HOUSE,
   PULAMANTHOLE, MALAPPURAM DIST.

7. K.M.MUHAMMED KAMAL, AGED 43 YEARS,
   S/O K.M.MUHAMMED KUTTY HAJI,
   KANHIRAKKADAVATH MULLATH, PULAMANTHOLE,
   MALAPPURAM DISTRICT.

BY ADV. SRI.K.RAMAKUMAR
SRI.T.RAMPRASAD UNNI

RESPONDENTS:

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1. THE REVENUE DIVISIONAL OFFICER,
   PERUNTHALMANNA.

2. THE DISTRICT SURVEY SUPERINTENDENT,
   MALAPPURAM.

3. THE TAHSILDAR, PERUNTHALMANNA,
MALAPPURAM DIST.

4. THE ADDITIONAL TAHSILDAR,
PERUNTHALMANNA, REPRESENTING THE TASK FORCE,
PERUNTHALMANNA TALUK.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C) NO. 22954 OF 2007

Dated this the 10th day of August, 2007

J U D G M E N T

The petitioners are owners of buildings in Pulamanthol in the main road, between Perunthalmanna and pattambi and in the Kolathur Road. They are aggrieved by the action taken by the respondents in evicting the petitioners from part of their building on the allegation that the same is Government land. According to the petitioners, the petitioners are not in possession of any Government land and the concerned Tahsildar has not properly surveyed the property in question. They submit that the Tahsildar was not able to locate even one survey stone for enabling them to conduct proper measurements. They would further submit that they have not been issued any notice in the matter and the respondents are threatening to evict the petitioners and to demolish their buildings without even a notice.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that the petitioners have been issued any notice in the matter.

3. It is settled law that such action could have been taken by the respondents only after giving a notice to the petitioners, giving

them an opportunity of being heard with opportunity to adduce evidence also and passing a speaking order. Needless to say, proper survey of the property also has to be done to determine whether the property in the possession of the petitioners is encroaching into any Government land.

In the above circumstance, this writ petition is disposed of making it clear that the petitioners shall not be evicted and their buildings demolished except after completing the above said procedure.

S. SIRI JAGAN, JUDGE

Acd/